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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/034,818      | 12/27/2001  | Alain Winninger      | 33339/242494        | 2481             |

826 7590 09/25/2002

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EXAMINER

CHARLES, MARCUS

ART UNIT PAPER NUMBER

3682

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/034,818 | Applicant(s)<br>WINNINGER ET AL. |  |
|                              | Examiner<br>Marcus Charles    | Art Unit<br>3682                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

- A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

### **DETAILED ACTION**

This is the first action with merit regarding serial application number 10/034,818. claims 1-13 are currently pending.

#### ***Election/Restrictions***

1. Applicant's election of group I (claims 1-12) in Paper No. 5 is acknowledged.
2. Claim 13 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected with traverse, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.
3. Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

#### ***Drawings***

4. The draftsman has approved the drawing filed with this application as formal drawing.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4-5 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make

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and/or use the invention. It is not clear what is the nominal length of a drive system and the specification does not describe the nominal length of a drive system. Therefore, it is not enabling for one to compare the length of the belt on a test bench with the nominal length of a drive system.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP('381,281) in view of Richmond('069). EP('381,281) teaches a V-belt (which is a power transmission belt) inherently comprises an elastomeric matrix and a tension reinforcement cord consisting polyamide 4.6 twisted filaments. EP('381,281) does not disclose the cooling and curing condition of the elastomeric matrix. Richmond discloses a belt comprising elastomeric material which is cured and cooled without any belt tensioning in order to increase flexibility, provide optimum quality and maintain structural strength. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to cure and cool the elastomeric matrix of EP('381,281) without belt tensioning in view of Richmond in order to increase flexibility, provide optimum quality and maintain structural strength.

Regarding claims 2-3 and 6-12, EP('381,281) does not disclose the average

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slope of the stress elongation diagram and the tensioning range, the diameter range of the twisted strand, the spaced between the strands, the nominal tension. It would have been obvious to one of ordinary skill in the art to carry out a stress elongation test so as to arrive at a particular value, since such a test is old and well know in the art.

Furthermore, EP('381,281) it would have been obvious to one of ordinary skill in the art to modify the belt to spaced the strands at a desired distance and diameter and such that the nominal tension at forming the elastomeric matrix is less than 5N, since such a modification would have involve a mere change in size of the belt. A change in size is generally recognized as being within the lever ordinary skill in the art. In Rose, 105 USPQ 237 (CCPA 1955).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP(339,249) discloses a belt having stress elongation slop. Leeper('180) and McCullough Jr. et al.(760) disclose a stress elongation slope for an elastomeric material. EP('507412) discloses an elastomeric material made from polymide 4.6. Matheson discloses a twisted strand (11) made from polyamide. Houdret('546) discloses a belt having a stress elongation in daN/cm. Robecchi('030) discloses a stress elongation curve for a belt.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Marcus Charles  
Examiner  
Art Unit 3682  
September 23, 2002